

# **EXHIBIT B**

# **DEFENDANTS' EXHIBIT 0091**

**Animal Welfare Task Force**  
**August 24, 2005 Meeting Summary & Follow Ups**

**Scope of Program**

Initially the KFT animal welfare program will address the housing, transportation, handling and/or slaughter practices in KFT facilities and by KFT suppliers that manage live animals.

Rationale

KFT purchases a variety of animal-derived ingredients, such as fluid and dried milk, cheese, meat and shelled eggs. While some of these, like meat and shelled eggs, are procured directly from hatching or slaughter facilities, others such as dried milk are procured indirectly through cooperatives or third parties and KFT has no direct contact with the farms or facilities that handle live animals.

Given KFT's visibility in the dairy category, research was carried out on animal welfare recommendations and stakeholder expectations for dairy cows. The highlights of the research were

- The California Dairy Research Foundation has developed a voluntary certification program, the California Dairy Quality Assurance Program. While the guidelines appear sound, they do not seem to be well established in the dairy industry and there are a few (often state specific) certifying agencies that administer the program.
- Approximately 80% of dairy farms are part of co-operatives that pool their milk. Identifying which specific farm milk has come from would be impossible so certification would be needed for the entire co-operative.
- The Food Service group indicated that while animal welfare is an issue being discussed, dairy farming has not been raised as a topic often.

Follow Ups

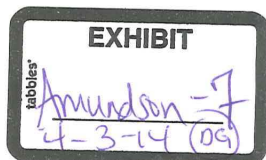
Zolin/Pagel – continue to monitor animal welfare issues for dairy farming  
Sveum/Sarachman – inventory animal welfare policies of competitors (meat processors)

**Animal Welfare Guidelines**

For US, KFT will use the species-specific animal welfare guidelines developed by industry trade associations as the standard for domestic produce. For meat procured outside the US, we will require that those suppliers comply with EU requirements

The specific guidelines we will follow in the US are:

- Beef, pork and sheep – American Meat Institute
- Egg laying hens – United Egg Producers
- Broiler chickens – National Chicken Council
- Turkey – National Turkey Federation



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#### Rationale

While USDA addresses animal welfare in various laws and regulations, species-specific animal welfare guidelines go above and beyond USDA requirements. These are achievable and auditable and have been reviewed by recognized experts in the field. In the case of red meat, these are widely accepted and adopted throughout the industry, while poultry welfare guidelines are just beginning to be implemented in the U.S.

Kraft would require meat procured outside the US to comply with EU requirements, as these suppliers usually export to the EU as well, and the EU requirements are comprehensive

From an international perspective, in the EU the current laws are broader, with specific requirements for slaughter and transportation and compliance with EU laws should be sufficient

#### Follow Ups

Amundson - Develop chart that inventories the commodities KFT purchases from slaughters or animal handlers, the country of origin and applicable animal welfare guidelines by commodity.

#### **Audit Programs**

Third-party audits that verify compliance with species-specific guidelines should be conducted at least once a year. The company performing the audit should be an established auditor in the area of animal welfare. Kraft procurement is in the process of inventorying the audit practices of suppliers; this will be complete by the end of the year.

Results of supplier audits will be communicated to Kraft, but in some cases, results may be confidential. Kraft will in turn release the summary of those audits to key customers as requested, however we will not release the individual results of our suppliers, unless we have specific permission to do so.

For international suppliers, we need to check the EU regulations for performance indicators

#### Rationale

Third party independent audits are common in the industry, and there are a couple of companies (e.g. Siliker) who conduct most of the audits for our suppliers. Unless Kraft is willing to pay for the audit, it could be difficult to specify an acceptable third-party auditor.

#### Follow Ups

Task force - Discuss development of an audit policy that addresses the following issues:

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- How do we get suppliers to meet expectations, if no third party is identified for audit purposes?
- How do we communicate compliance to customers when some supplier audits may be confidential and when in some products it is difficult to track ingredients to a specific supplier?
- What corrective action will KFT implement for suppliers who fail to conduct an audit or who do not meet the guidelines?

#### Follow Ups

Amundson – Complete inventory of supplier audit practices (end of year); discuss corrective action for suppliers that fail audits with procurement.

Regan/Beard – Follow up with Food Service on customer expectations

Hunt – Research EU requirements for key performance indicators (KPIs)

#### **Stakeholder Engagement**

The Task Force will consider engaging with select key customers to gain their perspective on animal welfare, and Kraft's proposed animal welfare policies and practices.

#### Rationale

Research was conducted on the issue of animal welfare in the US, EU and Australia. Highlights were:

- The issue of animal welfare is discussed more broadly in the US. Than other regions.
- Confinement/ space is one of the issues common to most stakeholders and the majority of groups researched oppose factory farming. Confinement is an issue that KFT has little control over and the abolition of factory farming is not something that Kraft would support.

If necessary the Animal Agriculture Alliance might also provide a good perspective on NGOs.

#### Follow Ups

Regan/Beard – Work with Food Service and sales to discuss potential stakeholder engagement with key customers.

Explore Animal Ag Alliance capabilities.

#### **Agenda Items Not Addressed**

These items will be discussed at the next meeting.

##### 1. Newberry Facility

Currently evaluating practices against NTF guidelines; may need improvement in stunning

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Follow Ups

Sveum – Identify potential solutions/recommendations to meet NTF guidelines.

Amundson – Research third-party audit options for Newberry.

2. Nabisco Kennels

3. KFT Position on Controlled Atmosphere Killing

Next Meeting

Tuesday September 20<sup>th</sup> 2p.m. – 3.30 p.m.

**Conference Call:**

**Dial In Number – 866 222-0917**

**Participant Code – 678976**

**Host Code - 788217**

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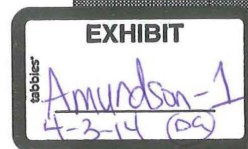
# **DEFENDANTS' EXHIBIT 0095**



Issues Management

# DRAFT ANIMAL WELFARE POLICY AND PROGRAM RECOMMENDATION

April 2006



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Issues Management

## Draft Animal Welfare Policy and Program Recommendation

The recommendations in this document were developed by the Animal Welfare Task Force. The core members of the Task Force are:

- Curt Amundson – Global Supply Chain, Meat Procurement
- Chris Beard – Global Corporate & Government Affairs, Issues Management
- Josephine Hunt – Global Technology & Quality, Scientific Affairs
- Claire Regan - Global Corporate & Government Affairs, Issues Management
- Mike Sarachman - Global Technology & Quality, Scientific Affairs
- Bill Sveum - Global Technology & Quality, Scientific Affairs

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## Issues Management

- **Overview of Animal Welfare**
- Proposed Kraft Animal Welfare Policy
- Guidelines, Requirements and Compliance for U.S. Suppliers
- Guidelines, Requirements and Compliance for non U.S. Suppliers
- Potential Risks
- Cost Benefit

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Issues Management

## Overview of Animal Welfare – Why Does Kraft need an Animal Welfare Policy?

- The issue of animal welfare centers around the humane treatment of animals. The aim is to ensure the optimal care of animals and to minimize suffering.
- Animal welfare is a growing societal concern, especially in the U.S. and E.U. Much of this is a result of society's increased awareness of large scale animal feeding operations.
- Companies throughout the food supply chain (from slaughterers to restaurants) have developed animal welfare policies and programs.
- Some customers are asking Kraft to ensure that the meat products they purchase come from animals which were treated humanely.
- Industry Trade Associations have proactively established animal welfare guidelines, e.g. American Meat Institute (AMI) and National Turkey Federation (NTF)
- Kraft operates one slaughter facility in Newberry, S.C.
- Kraft procures directly from 30 suppliers that slaughter animals.

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## Overview of Animal Welfare – Current Status

### Issues Management

- Legislation in the EU offers basic protection to all farm animals in the areas of farming, transportation and slaughter.
  - The US has similar laws except that poultry is not covered.
  - Many companies in the U.S. go above and beyond their compliance obligations, and also follow voluntary industry guidelines. Many also conduct independent audits to verify their compliance with those guidelines.
  - Currently >80% of Kraft's meat suppliers conduct an annual independent audit.
  - In the U.S. Kraft purchases meat from 37 suppliers. 95% of these are domestic suppliers.
- In the E.U. Kraft purchases meat from 10 potential suppliers, located in Argentina, Brazil and Uruguay.

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## Overview of Animal Welfare - NGO's

### Issues Management

- Animal welfare is not the same as animal rights. Animal rights groups believe animals possess the same rights as humans. They typically oppose the use of animals for any purpose including food, medical testing etc.
- Animal welfare experts have developed common themes on what constitutes humane treatment of animals but differ in opinion on how they should be achieved.
- NGOs are well funded and effective at communicating their animal welfare concerns to consumers. They often highlight issues associated with large scale animal feeding operations.
- NGOs have been key influencers in the development of animal welfare policies by companies such as KFC or McDonald's.
- Dairy farming has not been as prominent an animal welfare issue compared to veal production, animal slaughter and egg production.

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## Issues Management

- Overview of Animal Welfare
- **Proposed Kraft Animal Welfare Policy**
- Guidelines, Requirements and Compliance for U.S. Suppliers and Newberry Turkey Facility
- Guidelines, Requirements and Compliance for non U.S. Suppliers
- Potential Risks
- Cost Benefit

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## Proposed Animal Welfare Policy

### Issues Management

The proposed draft policy is:

Kraft believes that animals used to produce food products should be treated humanely. We require that all Kraft facilities and direct suppliers that manage live animals, meet certain animal welfare standards. These standards cover handling, housing, transportation and slaughter as applicable to each operation.

The rationale for this policy is:

- Animal welfare encompasses more than just slaughter, but also transportation, handling and housing.
- Kraft purchases a variety of animal-derived ingredients, such as fluid and dried milk, cheese, meat and shelled eggs. Some of these, like meat, are procured directly from facilities that handle live animals.
- Other ingredients, such as milk and cheese are procured indirectly through cooperatives or third parties and Kraft has no direct contact with the farms or facilities that handle live animals.
- By applying the policy internally and to suppliers that handle live animals (i.e. going one level back in the supply chain) we will cover the slaughter of approximately 90% of the animals that contribute to Kraft meat ingredients. Going one level back will cover the handling and transportation of 60-70% of the animals.

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## Proposed Animal Welfare Policy

### Issues Management

- Impact to Kraft
  - The Newberry, S.C. turkey facility is the only Kraft operation that handles live animals.
  - This policy will impact approximately 30 suppliers in the U.S. and approximately 10 meat and X egg suppliers outside of the U.S.

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## Issues Management

- Overview of Animal Welfare
- Proposed Kraft Animal Welfare Policy
- **Guidelines, Requirements and Compliance for U.S. Suppliers and Newberry Turkey Facility**
- Guidelines, Requirements and Compliance for non U.S. Suppliers
- Potential Risks
- Cost Benefit

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## Requirements and Guidelines - U.S. Suppliers/ Newberry Facility

### Issues Management

- Kraft will require that the Newberry facility and all suppliers who fall within the scope of the animal welfare policy meet certain animal welfare guidelines. Suppliers will acknowledge this through the contracts they sign, and/or through purchase order agreements.
- For the U.S., Kraft will require its facilities and suppliers to meet the species-specific animal welfare guidelines developed by industry trade associations. The specific guidelines are:
  - Beef, pork and sheep – American Meat Institute
  - Egg laying hens – United Egg Producers
  - Broiler chickens – National Chicken Council
  - Turkey – National Turkey Federation

### Rationale:

- Adding standardized language to contracts and purchase orders will mean that suppliers are provided consistent requirements.
- Utilizing industry association guidelines (versus Kraft specific animal welfare guidelines) means that Kraft and its suppliers are following generally recognized industry standards.
- By using external guidelines, we are able to ensure that as animal welfare expectations change and the subsequent guidelines change, both Kraft and its suppliers are keeping up with those expectations.

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## Verifying Compliance - U.S. Suppliers/ Newberry Facility

### Issues Management

- The Newberry facility and suppliers will be required to conduct a third-party animal welfare audit on an **annual** basis.
- Suppliers will select their auditors from a KFT approved list of third-party auditors.
- If a supplier does not pass their audit they would be required to report this to Kraft.
- Kraft will have the right to review third-party audits upon request, including during a Quality Audit or a facility inspection.
- If a supplier is not in compliance with the animal welfare guidelines they would be violating the terms of our contract/ purchase order. At such point Kraft could either terminate the contract, or require that the supplier correct the areas of non-compliance and conduct a further audit to ensure that they are meeting the appropriate animal welfare guidelines.
- Kraft will not share supplier audit results with customers but rather will refer to its policy and audit program information.

#### Rationale:

- Third-party, independent audits are common in the industry.
- Utilizing existing quality audits and facility inspections, in conjunction with contracts and purchase orders means that Kraft will not be required to create new infrastructure to manage the animal welfare program.
- By having Kraft review, rather than conducting audits, we are not required to develop new skills sets or expend additional resources.

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## Requirements, Guidelines, Compliance - U.S. Facilities

### Issues Management

- Impact to Kraft:
  - The Newberry, S.C. facility will be required to comply with NTF guidelines.
  - The Newberry facility will conduct an annual audit that will be performed by a third-party auditor.
  - Prior to performing the first audit at Newberry, we would utilize a turkey welfare expert to assess current operations and suggest improvements.
  - An animal welfare section will need to be added to contracts and purchase orders as they are renewed.
  - Reviewing a supplier's animal welfare audit will be added to Kraft Supplier Quality Audits
- Impact to Suppliers:
  - The impact to suppliers is likely minimal as third-party audits are common in the industry, with several companies (e.g. Silliker) conducting most of the audits for our suppliers. Currently >80% of our meat suppliers conduct audits.
  - Since suppliers are not required to automatically send the audits to Kraft, this means that there is little additional burden on our suppliers.

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## Issues Management

- Overview of Animal Welfare
- Proposed Kraft Animal Welfare Policy
- Guidelines, Requirements and Compliance for U.S. Suppliers and Newberry Turkey Facility
- **Guidelines, Requirements and Compliance for non U.S. Suppliers**
- Potential Risks
- Cost Benefit

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Issues Management

## Requirements, Guidelines, Compliance – non U.S. Suppliers

- Kraft will also require that all non-U.S. suppliers who fall within the scope of the animal welfare program meet certain animal welfare guidelines. Suppliers will acknowledge this through the contracts they sign, and/or through purchase order agreements.
- For meat procured outside the U.S., we will require that those suppliers comply with E.U. laws and regulations governing animal welfare.
- Non-U.S. suppliers will verify compliance by providing a letter stating that they are in compliance with E.U. laws and regulations governing animal welfare. Additionally Kraft will reserve the right to request a third-party audit to verify compliance.

The rationale for this approach is:

- From an international perspective it is not practical to have suppliers comply with US industry standards
- E.U. laws on animal welfare cover transportation, handling, slaughter and housing, with specific requirements for slaughter and transportation.
- The E.U. Food and Veterinary Office (FVO) is responsible for monitoring compliance with E.U. laws governing animal welfare, food safety etc. It conducts inspections in facilities in E.U. member states and countries that export meat products to the E.U. These inspections are rare however, so Kraft will require a letter/ audit.

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Issues Management

## Requirements, Guidelines, Compliance – non U.S. Suppliers

- Impact to Kraft:
  - Kraft will be required to keep on file letters from non U.S. suppliers which state that they are in compliance with E.U. laws and regulations
  - An animal welfare section will need to be added to contracts and purchase orders as they are renewed.
- Impact to Suppliers:
  - Suppliers will be required to either proactively send a letter to Kraft stating that they are in compliance with E.U. laws and regulations, or conduct an annual third party audit to verify compliance.

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Issues Management

## Requirements, Guidelines, Compliance – non U.S. Suppliers

It is important to note that the EU is currently undergoing an extensive review of animal welfare guidelines. Under an initiative scheduled to run through 2010, the EU is focusing on five key goals:

- Raising standards based on scientific data and consumer demand
- Promote research on animal protection and welfare (e.g. creation of a European Centre on Animal Welfare)
- Classifying standards - likely to include KPI's (e.g. a label for products that in are line with certain animal welfare standards)
- Informing and involving (e.g. increased education for consumers)
- Promoting animal welfare internationally

As the EU work continues, Kraft should continue to monitor the progress, especially in areas such as the development of KPI's. Depending on how those KPI's evolve, Kraft may need to adjust how it applies its animal welfare policy to non-US suppliers.

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## Issues Management

- Overview of Animal Welfare
- Proposed Kraft Animal Welfare Policy
- Guidelines, Requirements and Compliance for U.S. Suppliers and Newberry Turkey Facility
- Guidelines, Requirements and Compliance for non U.S. Suppliers
- **Potential Risks**
- Cost Benefit

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## Potential Risks

### Issues Management

The potential risks to the proposed animal welfare policy and program are:

- The program may be criticized for only going one level back in the supply chain, especially in the area of housing.
- There is a possibility that contracts can become very customized, making it difficult to maintain consistency across suppliers.
- Some NGO's do not consider U.S. Trade Association industry standards as representing appropriate animal welfare standards.
- For non U.S. suppliers there are few objective KPIs associated with the E.U. laws and regulations
- Since it could be three years or possibly even more between Kraft quality audits of suppliers, it is possible that we would not uncover non-compliance for a period of years.
- It is possible that customers may ask Kraft to share the specific result of our suppliers audits.

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## Issues Management

- Overview of Animal Welfare
- Proposed Kraft Animal Welfare Policy
- Guidelines, Requirements and Compliance for U.S. Suppliers and Newberry Turkey Facility
- Guidelines, Requirements and Compliance for non U.S. Suppliers
- Potential Risks
- **Cost Benefit**

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## Cost/ Benefit

### Issues Management

- The potential costs to Kraft are:
  - Annual audit at Newberry facility – approx. \$2000
  - Improvements required at Newberry to meet NTF guideline – TBD
  - Additional time required to update future contracts and purchase orders with an animal welfare section - <40 hours
  - Collection and storage of compliance letters from non U.S. suppliers - <40 hours
  - Additional step involved in Kraft Quality Audit process - minimal
  - Cost to hire animal welfare expert - TBD
- The potential benefits to Kraft are:
  - Kraft is once again demonstrating that it is a responsible company.
  - When customers request that Kraft meet certain animal welfare requirements, we will be able to communicate our policy and program which will be consistent for all our customers. This will allow us to avoid multiple and potentially costly compliance programs.
  - When NGOs or other groups question Kraft's approach to animal welfare we will be able to communicate our policy and program as being in line with standard industry practices.
  - By utilizing an independent expert at the Newberry facility we will add credibility to our program, and independent review is typically viewed positively by animal welfare groups.

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# **DEFENDANTS’ EXHIBIT 0101**

**From:** Amundson, Curtis M.  
**Sent:** Monday, October 30, 2006 4:24 PM  
**To:** Choate, Greg K.; Weiss, Chad E.; Conklin, Terry A.; Gregorich, John W.; Meneses, Javier A.; Soloninka, John M.  
**Cc:** Hite, Greg A.; Paulos, William T.; Rojo, Jose C.  
**Subject:** Animal Welfare Language

The approved animal welfare language for contract and purchase order use is written below. An animal welfare document explaining Kraft's position will be forthcoming. Please move forward in implementing the language as possible in 2007 contracts covering any suppliers that directly handle or slaughter animals for meat, poultry, or eggs supplied to Kraft. The language is not needed for contracts or PO's where a supplier selling to Kraft is obtaining meat, poultry, or eggs from a third party.

Supplier must comply with:

(i) the Federal Humane Slaughter Act (as applicable); and,

(ii) industry standards prescribed by (a) the American Meat Institute (specifically "AMI Foundation Recommended Animal Handling Guidelines and Audit Guide, 2005 Edition"), (b) the National Chicken Council (specifically "NCC Animal Welfare Guidelines and Audit Checklist, as of April 2005"), (c) the National Turkey Federation (specifically "NTF Animal Care For the Production of Turkeys: Slaughter Guidelines and/or Production Guidelines"), and (d) the United Egg Producers (specifically "United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks (2006 Edition)") (as applicable).

Supplier must keep up to date and comply with the most recent versions of the above.

Supplier shall maintain United Egg Producers Certified status, if applicable. Supplier shall have audits conducted annually by a third party for AMI, NCC, and NTF standards and will provide the results to Kraft upon request. If Supplier fails an audit, it will immediately notify Kraft, providing the date and location of the failed audit and a detailed remediation plan acceptable to Kraft, including the corrective steps, timeline, and re-audit date. Supplier will fulfill the remediation plan in all respects.

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**DEFENDANTS'**

**EXHIBIT**

**Case No. 1:11-cv-08808**

**D-0101**

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# **DEFENDANTS’ EXHIBIT 0110**

KRAFT FOODS GLOBAL INC./ROSE ACRE FARMS INC.  
AMENDMENT TO  
EGG PRODUCT SUPPLY AGREEMENT

DATED JUNE 28, 2005

THIS AMENDMENT, effective June 28, 2007, is entered into with respect to that certain Egg Supply Agreement effective the 1<sup>st</sup> day of May 2004 ("Agreement"), between Kraft Foods Global, Inc. ("Kraft") and Rose Acre Farms ("RAF").

This Amendment shall be fully incorporated into the Agreement and any conflict between the Agreement and this Amendment shall be resolved in favor of this Amendment. All capitalized terms used in this Amendment shall have the meaning given them in the Master Supply Agreement or the Agreement (as the case may be), unless otherwise defined herein.

Pursuant to the foregoing, Kraft and RAF specifically agree as follows:

**Contract Term:** The extended term will cover Kraft needs as of July 1, 2007 through June 30, 2008.

**Service Performance:** Kraft requires RAF to self monitor Order Fill and On-Time Deliveries and send monthly updates.

**Pricing Process:** Monthly pricing will be based on the Urner Barry certified markets. On any day that the certified market is not quoted the non- certified market quote will be used. The differential between the non- certified market quote and the certified market quote will be capped at \$4 per hundred-weight (cwt)

**Other Terms:** Kraft Animal Welfare policy will be fully incorporated in this Amendment ( See attached Exhibit).

Our authorized representatives execute this document by signing below. We may sign separate copies.

**Rose Acre Farms**

**Kraft Foods Global, Inc.**

MCwCFCdfLrpTgSqa5AY1VIO7IFeW1A  
zAhRt225hP/sJT4mloVT93n/9zJDFiQ==

MC0CFQCRBZ8yr9CUEYw+6hFaK714i1x  
UUQIUJQV7MnaVnzZV+aMYE5SgBrPzfx  
Y=

Signature  
JOSE ROJO

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**DEFENDANTS'**

**EXHIBIT**

**Case No. 1:11-cv-08808**

**D-0110**

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Name	Name
	Director
Title	Title
7/11/2007	7/13/2007
Date	Date

## EXHIBIT

### **Kraft Animal Welfare Policy.**

Supplier must comply with:

- (i) The Federal Humane Slaughter Act (as applicable); and,
- (ii) Industry standards prescribed by (a) the American Meat Institute (specifically "AMI Foundation Recommended Animal Handling Guidelines and Audit Guide, 2005 Edition"), (b) the National Chicken Council (specifically "NCC Animal Welfare Guidelines and Audit Checklist, as of April 2005"), (c) the National Turkey Federation (specifically "NTF Animal Care For the Production of Turkeys: Slaughter Guidelines and/or Production Guidelines"), and (d) the United Egg Producers (specifically "United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks (2006 Edition)") (as applicable).

Supplier must keep up to date and comply with the most recent versions of the above.

Supplier shall maintain United Egg Producers Certified status, if applicable. Supplier shall have audits conducted annually by a third party for AMI, NCC, and NTF standards and will provide the results to Kraft upon request. If Supplier fails an audit, it will immediately notify Kraft, providing the date and location of the failed audit and a detailed remediation plan acceptable to Kraft, including the corrective steps, timeline, and re-audit date. Supplier will fulfill the remediation plan in all respects.

# **DEFENDANTS’ EXHIBIT 0652**

SENT BY: KROGER CORP AFFAIRS

12-5-0

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CORPORATE AFFAIRS

202 220 0874;# 1/ 2

10. Karen Brown  
 Ertharin Cousin  
 Jonathan Mayes

FMI  
 Meeting Notes  
 November 29, 2000  
PETA

Attending: Karen Brown, Vice President, Public Affairs, FMI  
 Ertharin Cousin, Vice President, Corporate Affairs, Albertson's  
 Jonathan Mayes, Vice President, Government Relations, Safeway

Safeway, Albertson's and I met with Karen Brown about PETA.

Our hope is that no individual company will deal with PETA, but instead we will all work with FMI to develop an industry position that we can all adopt. Our vision of what we want is the following:

- industry standards that cover humane treatment of chickens, cows, pigs that are processed for meat and eggs;
- endorsement of the standards by recognized, credible animal welfare organizations;
- execution of a media plan that promotes the industry action;
- consumer materials that address the issues and provide assurances for customers.

The benefits of this approach are many and include the following:

- we may be able to avoid any company being singled out by activist groups (which is a key learning from McDonalds and advice from P&G);
- individual companies don't have to duplicate efforts (i.e., interviewing McDonalds, contacting suppliers, developing supplier standards, etc.);
- individual companies are not leveraged by the actions of one.

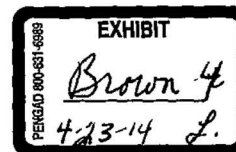
All these steps must be done quickly. Our goal is to have industry standards ready by mid-February.

Our approach will not be discussed with PETA or the media. Our goal is to have a united front that catches PETA off-guard and will have credibility with consumers. McDonalds regrets having engaged PETA in dialogue and adopted their supplier standards independently of PETA. (McDonalds has not talked to PETA for two years, notwithstanding what PETA claims).

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FMI-001209

**DEFENDANTS'**  
**EXHIBIT**

Case No. 1:11-cv-08808

**D-0652****D-0652-0001 of 0002**

Based on our meeting, FMI will do the following:

1. Research current industry standards and standards the industry is proposing to implement;
2. Research the so-called "McDonalds' standards".
3. Research organizations (such as American Humane Assoc.) and university experts that FMI can partner with and who might "endorse" a set of standards that the major companies have developed and support.
4. Hold a joint conference call with McDonalds to understand their experience.
5. Once we have a shared information base, set up a conference call or meeting with the producer trade associations and their leading members. The purpose of the meeting would be to do the following:
  - a. Let the producer industry know that retailers take PETA's issues seriously.
  - b. Tell them our approach will be a voluntary industry approach.
  - c. Educate them about our vulnerability, including documented acts of terrorism by Animal Liberation Front and vandalism of PETA. Retail cannot become the target of activists because of the acts of suppliers.
  - d. Review with the industry representatives PETA's "demands", the standards of the industry and the so-called McDonalds' standards and identify points of commonality, practices the industry is changing, and opportunities for change that the industry is not taking (and understand reasons why).
6. Research the consumers' point-of-view and reaction to PETA's claims. Use the research to develop consumer materials and the industry's media plan, key messages, etc.

HAFMIA1129Note.fwp

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# **DEFENDANTS' EXHIBIT 0655**

**Animal Welfare Conference Call  
Wednesday, June 6, 2001**

**Conference call participants**

**For FMI:**

Karen Brown  
Nancy Yanish  
Jill Hollingsworth, DVM

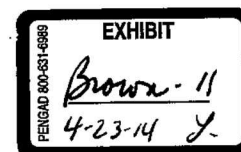
**Expert Review Panel:**

Adele Douglass, American Humane Association  
Gail Golab, DVM, American Veterinary Medical Association  
Temple Grandin, PhD, Colorado State University  
Joe Mac Regenstein, PhD, Cornell University

After introductions, Karen reviewed the role of the expert review panel and FMI's intent to develop a set of retailer's expectations for animal welfare and humane handling. Gayle announced that AVMA has agreed to fully support our initiative and will provide veterinary experts to assist FMI.

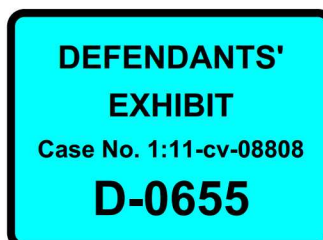
**Summary of General Comments**

- Guidelines are a good start, but real progress has only been seen since the initiation of audits and reviews by the retailers (specifically by some of the quick-service restaurant chains).
- FMI needs to define the level of detail we want in our policy and programs. What role does FMI want in defining minimum standards? Does FMI want to have a role in auditing? How much?
- To be effective, a standard must also have a means for measuring compliance. Does FMI want to develop an audit checklist? Can compliance be included in the buyer specifications?
- The only effective welfare and handling standards are those that have a quantitative scoring system and monitoring. Guidelines are ineffective if they use terms like "do adequately" or "provide sufficient space."
- Jill provided a brief explanation of current retail audit practices (retail audit, self-audit, and third party audit)
- Temple estimates that about 10% of the cattle industry does not comply with the standards. Those that are audited do a much better job.
- Should strive for "Acceptable Minimal Standard." Current rating system for producers: excellent, acceptable level, not acceptable, and failure.
- Compliance with acceptable standards is greatly dependent on equipment.
- If FMI establishes standards or guidelines, we should have a brief justification for every recommendation. These should not be based on consumer perceptions or attitudes – basis for expectations should be animal issues, not people issues. But, they should also not be based solely on economics. Keeping animals alive and well should be the economic incentive, which also improves quality and productivity.



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FMI-000680



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- Gayle indicated that because AVMA has just recently announced its participation on the expert panel, she would like additional time to get feedback from veterinary experts in this area.
- Cannot count on government for animal welfare. FSIS has minimal impact and APHIS has no authority on-farm. Animal welfare is better controlled by the supplier-buyer relationship.

Following this discussion, FMI asked the expert panel to comment on the current guidelines provided by each specific commodity group.

### CATTLE

The expert panel divided the cattle issues into 2 distinct categories: slaughter procedures and on-farm practices. Also, some difference between beef and dairy cattle were pointed out.

Summary of cattle issues:

- The guidelines written for cattle slaughter by Temple in 1991, revised 1997 are still the best. These are the AMI guidelines.
- Downer animals (fallen stock) is a bigger issue for dairy cattle and must be addressed on-farm, during transport and at slaughter plant.
- Guidelines are only good if they are accompanied by an audit and enforcement program.
- On-farm issues are of greater concern – no guideline was provided by the cattlemen (NCBA) and the expert panel felt that the cattlemen were slow in adopting standards or guidelines.
- On-farm gaps include:
  - Handling of downers – should not be moved off farm (Jill raised concern about testing for diseases such as BSE if animals are destroyed on-farm)
  - Conditions, such as cancer eye, left untreated.
  - Guidelines for castrating and dehorning should be based on age and weight (Example given was the FAST (?) guidelines)
  - Eliminate face branding; guidelines for all branding
  - Mud and temperature issues in feedlots: mud should be 3" or less; need shade or sprinkler system for heat control and stress reduction
- AVMA differentiates between "types" of downers based on degree of distress. The meat industry (IBP) has also developed a system for identifying different conditions leading to downer animals.
- Downers should not be taken off transport trucks – should be examined and shot on the truck.
- Other guidelines/gaps:
  - Handling and transport on farm and at feedlot
  - 5% or less use of electric prod

### CHICKENS: EGG-LAYERS

- Three gaps: space; forced molting; and disposal
- Cage size of egg layers is big issue.

- Recommendation is for minimum 72 square inches floor space. UEP said it would meet this standard (67-72 sq. in.) in 10 years – not acceptable to expert panel.
- In addition to 72 sq. in. floor space, also need to specify cage height requirements.
- Forced molting – should not be done by removing food.. Consider not doing forced molting at all – leads to osteoporosis. After forced molt, chickens lay fewer eggs but they are bigger.
- Gayle said that nutritionists are working on new diets to address this concern.
- Disposal of spent hens and male chicks – not always humanely killed before disposed. AMVA has guidelines for euthanasia (including chicks)

#### **CHICKENS: BROILERS**

- Stunning is generally good, but need to have scoring system for compliance. Also, need to score how many carcasses were not killed before scalding (number of cadaver “red” birds.)
- Human handling by catching crews (on-farm) and hangers (at slaughter plant) is best achieved by incentives for the workers. Incentive pay for birds without broken wings or legs.
- On-farm (in chicken houses):
  - Leg problems: can be corrected by genetics and diet. Can score compliance by assessing mobility of birds in the house.
  - Ventilation - ammonia levels should be less than 25 ppm
  - Wet bedding – causes sores and lesions on birds. Need dry, clean flooring.
  - Life support back-up systems – needed when power outages occur.
- In hatchery:
  - Cull baby chicks – need humane method of disposal (euthanasia). Can use CO2 chamber.
  - Equipment for separating chicks from shells – need safeguard to ensure chicks do not get crushed with the shells.

#### **SWINE**

- Pork industry has the most detailed guidelines, but they condone the use of gestation sow stalls that do not allow the pigs to turn around. (Gestation is the time when the pig is pregnant – in other words, most of its life.)
- Sows should be able to turn around in their stalls.
- Farrowing stalls (where pigs deliver and raise piglets) allow pigs to lay down but could be designed better. See design by David Frasier.
- Group housing is better but requires more space and more management. Economic impact.
- Slatted floors are not a big problem

#### **TURKEYS**

- Issues are the same as for broilers.
  - Stunning
  - Ventilation (ammonia 25 ppm)
  - Wet bedding
  - Catching without breaking bones
  - Emergency back-up systems for power outage

### KOSHER

- Need upright restraint systems only
- Can be done humanely but some rabbinical authorities allow bad practices - this is especially a problem overseas (Do we want same standards for imported products?)
- There are still some who are live hoisting animals in this country -- especially for veal and sheep.

### VEAL

- Need stall where it can turn around
- Liquid diet leads to anemia
- For kosher -- should stop live hoisting
- Gayle has an expert within AVMA on calves who can help with this.

### OTHER PRODUCTS

- Sometimes they want exemptions since they tend to be small operations - all size operations can be held to the same standard.
- Others include: small game, wild game, sheep and lambs, ducks

### Follow-Up

- Temple will provide the beef and chicken audit forms
- FMI to send Adele's materials out to all expert panel members
- Gayle - reach out to veterinary experts
- Temple said she trains auditors to measure compliance
- Next meeting should be in mid-July

Upcoming meeting of the American Society of Animal Science (includes dairy, meat and poultry scientists) -- Temple and Joe will be there and will get additional information and insight on what is happening in the industry on animal welfare.

# **DEFENDANTS' EXHIBIT 0710**

October 25, 2000

Mr Gary G. Michael, CEO  
Albertson's Inc.  
PO Box 20  
Boise, ID 83726-0020

3 pages via fax: 208-395-6225

Dear Mr. Michael:

On behalf of People for the Ethical Treatment of Animals (PETA) and our more than 700,000 members and supporters, I am writing to request a copy of your standards for the welfare of animals raised by your beef, pork, chicken, egg, and dairy product suppliers, and to urge you to exceed McDonald's new animal welfare standards.

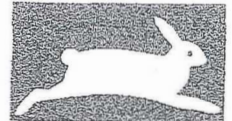
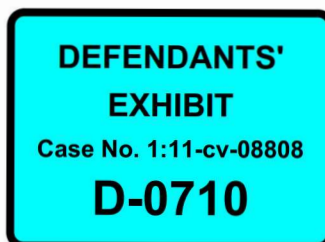
As you may know, McDonald's has recently developed regulations and an auditing procedure for both slaughterhouses and farms that raise animals for its restaurants. To date, McDonald's has: 1) instituted both stunning efficacy requirements and an auditing and sanctioning procedure for its slaughterhouses; 2) instituted a procedure to alleviate the suffering of chickens during the "catching" process (in preparation for their trip to the slaughterhouse); 3) required that its egg suppliers phase out the starving and dehydrating of hens (forced molting); and 4) required that egg suppliers give hens a minimum of 72 square inches of space per bird. McDonald's has also begun to explore the feasibility of buying only from suppliers who raise sows in less cruel conditions since currently, pregnant pigs are confined to concrete stalls so cramped that they cannot turn around.

You may be aware of the formal complaint by the Washington State Attorney General's Office detailing graphic allegations of inhumane conditions at an IBP slaughterhouse. Filed with the complaint were 17 affidavits from IBP slaughterhouse workers describing routine instances of inhumane slaughter in clear violation of federal and state humane-slaughter regulations. Workers allege excessive and cruel use of electric prods to speed cows through a fast-paced slaughter process that often does not allow for proper stunning of the animals. According to the affidavits, cows are still fully conscious while having their throats slit and being dismembered. In fact, a videotape taken at IBP shows this to be the case. On June 5, Washington Governor Gary Locke reaffirmed the seriousness of the charges by demanding an investigation into the matter by federal, state, and local authorities. We are interested in what steps you have taken to ensure that animals killed for your stores aren't skinned and dismembered while fully conscious.

McDonald's CEO Jack Greenberg declared at the company's annual shareholder meeting in May that McDonald's takes animal welfare issues seriously and intends to be a leader on all fronts. McDonald's understands that it is in its best interests to place a premium on animal welfare, because customers care about animals. We are pleased by the basic, yet important, steps that McDonald's has taken and have declared a one-year moratorium on our campaign against McDonald's (see [www.McCruelty.com](http://www.McCruelty.com)), which has in the last year included more than 400 demonstrations and the production of advertisements, leaflets,



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**PETA**

PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS

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NORFOLK, VA 23510  
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FAX 757-622-0457

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[info@peta-online.org](mailto:info@peta-online.org)

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TO PROTECTING  
THE RIGHTS OF ALL ANIMALS

PETA 1

stickers, posters, billboards, and T-shirts that have been well covered by the media.

The following represent the most extreme areas of animal suffering experienced by animals raised for food. We would be happy to meet with you to go over each of the following points in detail, but I will summarize each briefly. We urge you to make a commitment similar to the one that McDonald's has made by instituting the following changes:

- 1) **Ensure 100 percent stunning efficacy for cows and pigs.** As the Washington IBP case makes clear, animals are routinely skinned and dismembered while still conscious, in violation of the one federal law that attempts to protect animals raised for food. The federal Humane Slaughter Act requires that cows and pigs be stunned before slaughter. You should require that your suppliers hire a second stunner on the "kill floor" and slow down slaughter lines in order to ensure that animals aren't skinned and dismembered while they are still conscious.
- 2) **Require that slaughterhouses effectively stun chickens before slaughter.** Currently, chickens in the U.S. are not stunned before their throats are slit, so they suffer miserably as they either bleed to death or are boiled alive in the feather-removal scalding tanks.
- 3) **Conduct unannounced audits at all slaughterhouses.** Hire an expert to audit slaughterhouses and cut off those that are skinning and dismembering conscious animals, as McDonald's has done.
- 4) **Require that suppliers immediately and humanely dispatch any animals who arrive at the slaughterhouse unable to walk, with broken limbs, or in severe pain (frozen, suffering from heat stroke, etc.).** Animals routinely arrive at slaughterhouses frozen to the sides of trucks or unable to walk because of injuries or heat exhaustion. They should not be dragged from the backs of trucks or tortured into walking. They should be humanely euthanized.
- 5) **Stop buying eggs from suppliers that give hens less than 72 square inches of space per bird and phase out purchases from suppliers that raise hens in battery cages.** Your suppliers cram hens into cages with about as much space per bird as one-half a sheet of standard paper, with tens of thousands of birds in filthy ammonia-laden sheds. This abuse, which is illegal in much of Europe and has been deemed cruel by the entire European Union, must be phased out.
- 6) **Stop buying eggs from suppliers that starve and dehydrate hens in order to increase egg production (a process known as "forced-molting").** Outlawed in Europe, this process, used to force hens into another egg-laying cycle, kills about one-third of the hens subjected to it.
- 7) **Buy only chickens raised truly free-roaming.** Intensively reared chickens are crammed into crowded warehouses with tens of thousands of other birds, where they have less space per bird than a standard sheet of paper. Cutting a hole in the side of currently used warehouses, as many so-called "free range" companies do, is not acceptable. Chickens

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**PETA 2**

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require a nesting area, sunning area, shelter, and plenty of food and fresh water that is spread out enough to prevent the birds from fighting over it.

- 8) **Buy chicken flesh and eggs only from suppliers that don't debeak chickens.** Debeaking is the industry's cruel response to the destruction of nature's pecking order, which makes chickens insane and causes them to fight because of severe overcrowding. The solution is to improve conditions so that animals do not go insane and attack one another, not to hack off their body parts.
- 9) **Institute humane guidelines for methods of catching chickens.** Chicken catchers routinely break bones as they gather chickens in sheds, remove hens from cages, and load them into crates for transport to slaughter. Penalize workers who break bones and reward workers who treat chickens more gently.
- 10) **Require that your suppliers stop breeding animals for weight.** Currently, chickens are at full slaughter weight in less than two months. These birds suffer chronic leg pain and bone cracks, as their upper bodies are forced to grow so quickly that their legs cannot support their weight.
- 11) **Phase out purchases from farms that confine sows to stalls.** Sows must be given the ability to carry out their most basic instincts, such as rooting and nesting. Stalls that confine sows in isolation, have concrete floors, or lack adequate bedding are unacceptable.

Please know that since we've suspended our McDonald's campaign, we are in the process of choosing our next target. Please assure us that you plan to meet or exceed McDonald's commitment to animal welfare. We stand ready to meet with you, to assist you, and to work with you to improve the lot of the countless animals who depend on you for the relief of their suffering.

Sincerely,



Sean M. Gifford  
Vegetarian Campaign Coordinator  
Ext. 470

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# **DEFENDANTS' EXHIBIT 0712**

November 2, 2000

Mr. Joseph A. Pichler, CEO  
The Kroger Company  
1014 Vine St.  
Cincinnati, OH 45202-1141

2 pages via fax: 513-762-1400

Dear Mr. Pichler:

Although we have not received a reply to our letter of October 25 urging Kroger to meet McDonald's new animal welfare standards, we have read media statements from Kroger that have appeared in *The Kiplinger Letter* (October 13, 2000) and the *Cincinnati Enquirer* (October 28, 2000). They are cause for confusion and concern.

Although Kroger claims to be following McDonald's lead, it appears that Kroger does not intend to improve the lives of animals raised and killed for its stores. Claiming that your suppliers treat animals "... in accordance with applicable laws and recognized industry standards" means nothing as industry standards are archaic and cruel and do not offer even the slightest protection from animal cruelty. Industry guidelines allow animals' beaks to be sliced off without painkillers, seven or eight hens to be crammed into an 18-by-20-inch space for their entire lives, the starving and dehydrating of hens for up to 14 days to force them into another egg-laying cycle (causing one-third of them to die), and other grotesqueries. McDonald's is challenging industry guidelines and requiring significant improvements of its suppliers. If your plan is to ensure that suppliers meet industry guidelines, then you have done nothing, not one animal's life has been improved, and your claims amount to consumer fraud.

Just as thieves will assure police officers that they haven't stolen anything, slaughterhouses will assure buyers that no laws are being broken. The only law that protects animals raised for food is the Humane Slaughter Act, and it is not enforced. Today, slaughter lines are moving so fast that many cows and pigs are not properly stunned and can be fully conscious during skinning and dismemberment. When McDonald's slaughterhouses were audited in 1996, they discovered that 70 percent of the facilities were not in compliance with the Humane Slaughter Act. Is Kroger going to purchase cows and pigs from suppliers that abuse animals and break the law? Please provide us with tangible evidence that Kroger will follow McDonald's lead by auditing its suppliers.

You also claim that your suppliers don't debeak chickens, yet debeaking is a standard agricultural practice for egg-laying hens. If Kroger has made the compassionate choice to refuse to buy from such suppliers, congratulations. Debeaking is a painful procedure that cuts through the sensitive nerves of a hen's beak causing thousands of hens to die from shock or later starve to death because it becomes too painful for them to eat. It is a cruel

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**DEFENDANTS'  
EXHIBIT**

**Case No. 1:11-cv-08808**

**D-0712**



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**PETA 77**

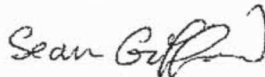
**D-0712-0001 of 0002**

solution to overcrowding, which causes hens to fight among themselves for enough space to simply sit down to rest in, something that your current space allowances do not permit every hen in a cage to have. A better solution is to take the hens out of cages. We fear, however, that your statement is not accurate since Kroger probably buys more eggs than McDonald's, and your action has created no buzz in the industry, while McDonald's improvements certainly have. Will you please confirm that Kroger does not purchase eggs from suppliers that debeak their hens?

We look forward to receiving your reply. We urge Kroger to make commitments similar to the ones McDonald's has made by instituting the changes outlined in our previous letter. As America's largest grocery store chain, Kroger has the opportunity to emerge as a leader in the humane treatment of animals by reducing the amount of suffering endured by the pigs, chickens and cows supplied to its stores. Dr. Steven Jay Gross, a business consultant from Chicago who was involved in our negotiations with McDonald's, is willing to work with Kroger to make this happen.

On behalf of PETA's 700,000 members, again, we look forward to working with you to alleviate some of the suffering that animals endure for Kroger.

Sincerely,



Sean M. Gifford  
Vegetarian Campaign Coordinator

cc: Dr. Steven J. Gross, Humane PAC  
Gary Rhodes, Manager of Corporate Affairs, Kroger

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**PETA 78**

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# **DEFENDANTS' EXHIBIT 0717**

August 19, 2001

Mr. Lawrence R. Johnston, CEO  
Albertson's, Inc.  
250 Parkcenter Blvd.  
P.O. Box 20  
Boise, ID 83726-0020

2 pages via fax: 208-395-6225

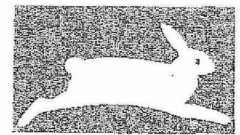
Dear Mr. Johnston:

When PETA first contacted Albertson's back in October of 2000 and urged the company to meet or exceed McDonald's new animal welfare guidelines, we had hoped that America's second-largest grocery-store chain would take action to reduce the suffering and misery of animals supplied to its stores. The next day, Jenny Enochson, a spokesperson for Albertson's, told the *Idaho Statesman*, "We are not ready to respond to PETA's letter at this time, but we are reviewing our current practices. It is our goal to respond." That was 11 months ago. PETA's subsequent letters and phone calls to Albertson's corporate offices have all gone unreturned.

Since our first letter to Albertson's in October, tremendous change has swept through the fast-food industry without any help from Albertson's. As both McDonald's and Burger King have demonstrated, it is in everyone's best interests to treat animals with basic decency. In late June, Burger King released a set of animal welfare guidelines that prohibit some of the worst acts of animal abuse—for example, skinning and dismembering fully conscious cows during slaughter, starving hens for up to two weeks in order to force them to lay more eggs, and confining hens to cages so small that they cannot all lie down at the same time. Burger King's CEO was quoted in the *New York Times* as saying, "We are the caretakers of God's creation. We have a moral obligation to treat them humanely, and when we do slaughter them, to do so in a painless manner." Currently, Tricon Global Restaurants is also forming an animal welfare panel to address critical animal welfare concerns, and Wendy's has reduced an enormous amount of suffering by implementing an auditing program to improve the slaughter methods of its suppliers.

As one of the main players in the grocery-store business, the moral obligation to treat animals humanely falls squarely on the shoulders of Albertson's, Inc. Yet, to date, PETA has received no indication whatsoever that Albertson's has any intention of reducing the suffering and misery of animals supplied to its stores. We have, however, received a letter sent to one of our members by Kent Killebrew, corporate director of quality assurance. In that letter, Mr. Killebrew states that Albertson's is in full agreement with the policy on animal welfare adopted by the Food Marketing Institute. It is encouraging to learn that Albertson's is aware of the work being done by the FMI, but attempting to deflect all tough questions to an industry trade group does not absolve Albertson's of responsibility for the animal abuse that it accepts from its suppliers. Regardless of the FMI's policies, Albertson's *must* take on the task of requiring its suppliers to meet or exceed the animal care standards adopted by Burger King and McDonald's. Just last week, PETA sent a letter to the FMI outlining a list of minimum standards that its members should adopt. While PETA remains guardedly optimistic that the FMI will release a satisfactory set of guidelines, I've enclosed a copy of this letter for your review, since the ultimate decision to implement these standards rests with Albertson's, not with the Food Marketing Institute.

While PETA understands that it could take a few months for Albertson's to institute its own standards, there is one extreme situation that needs to be addressed immediately. A recent PETA



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EXHIBIT**

Case No. 1:11-cv-08808

**D-0717**

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**PETA 6**

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investigation into Seaboard Farms, Inc.—North America's third-largest pork producer and reportedly a supplier to Albertson's—uncovered egregious acts of cruelty and neglect to pigs. During the investigation, farm managers and workers were caught on videotape routinely dragging, throwing, kicking, and beating animals—many to death—with metal gate rods and hammers. Others were left to suffer slow and agonizing deaths as a result of disease and injury, without receiving any veterinary care, despite the fact that management was fully aware of their conditions. It is bad enough that these animals were forced to endure horrible conditions in metal sheds where overcrowding and filth overwhelmed their senses. This additional abuse and neglect at the hands of Seaboard employees only served to worsen their nightmare and prevented them from engaging in the most basic of natural behaviors.

After speaking to one of Seaboard's distributors, we understand that Albertson's has carried Seaboard products in the past and may do so in the future, depending on weekly prices. We ask that you review the enclosed materials regarding the investigation and reevaluate whether Albertson's and its subsidiaries should continue buying from Seaboard.

That said, understand that we are ready and willing to work with Albertson's to develop meaningful reform in its supplier's practices. While PETA is currently targeting Wendy's with an aggressive international campaign ([WickedWendys.com](http://WickedWendys.com)), we will soon turn our attention to grocery store chains. If we are wrong about your intentions, please let us know that you are prepared to meet or exceed the standards set by McDonald's and Burger King, and we will gladly leave Albertson's in peace.

We look forward to your reply.

Sincerely,



Sean Gifford  
Campaign Coordinator  
Ext. 1470

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**PETA 7**

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# **DEFENDANTS' EXHIBIT 0718**

September 27, 2001

Mr. Lee Scott, CEO  
Wal-Mart Neighborhood Market  
702 S.W. Eighth St.  
Bentonville, AR 72712-6209

4 pages via fax: 501-273-4329

Dear Mr. Scott:

On behalf of People for the Ethical Treatment of Animals (PETA) and our more than 750,000 members and supporters, I am writing to request a copy of your company's minimal standards for the welfare of animals raised by your beef, pork, chicken, egg, and dairy product suppliers and to urge you to meet or exceed the new animal welfare standards set by McDonald's, Burger King, and Wendy's as soon as is humanly possible.

PETA made a similar request in a letter sent to you nearly a year ago but received no response. Perhaps the massive change that has swept through the retail food industry will compel Wal-Mart to take these issues to heart. As you may know, McDonald's, Burger King, and now Wendy's have developed regulations and an auditing procedure for slaughterhouses and farms that raise animals for their restaurants. Among various improvements, McDonald's, Burger King, and Wendy's have: 1) instituted stunning efficacy requirements and an auditing and sanctioning procedure for their slaughterhouses; 2) required the use of a procedure that alleviates the suffering of chickens during the catching process (for transfer to the slaughterhouse); 3) required that their egg suppliers phase out the starving and dehydrating of hens (forced molting); and 4) required that egg suppliers give hens a minimum of 72 or 75 square inches, respectively, of living space per bird. Burger King has also committed to buying from suppliers that raise sows less cruelly than commonly done today, i.e., those that do not keep pregnant and nursing pigs confined to concrete stalls so cramped that they cannot turn around.

You may already be aware of the formal petition filed with the USDA by the Union of Federal Meat Inspectors and of the subsequent petition filed by the Burger King Corporation detailing graphic allegations of grossly inhumane conditions at USDA-inspected slaughterhouses. The Humane Slaughter Act, the only federal law on the books meant to protect animals raised for food, is not enforced. Today, slaughter lines move so fast that many cows and pigs are not properly stunned and are sometimes fully conscious during skinning and dismemberment (see the enclosed article from *The Washington Post*). We are interested in what steps you have taken to ensure that animals killed for your customers aren't skinned and dismembered while conscious.

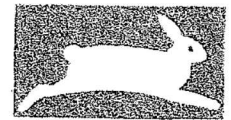
McDonald's CEO Jack Greenberg declared at his company's annual meeting in May 2000 that McDonald's takes animal welfare issues seriously and intends to be a leader on all fronts. McDonald's understands that it is in its best interests to place a premium on animal welfare because an ever-growing number of customers choose not to support cruelty to animals. We were pleased by the basic, yet important, steps taken by McDonald's and declared a moratorium on our campaign against the Golden Arches (see *McCruelty.com*), which included more than 400 demonstrations and the production of advertisements, leaflets, stickers, posters, billboards, and T-shirts that have been well covered by the media. In late June, PETA's "Murder King" Campaign, which involved provocative ads, celebrity support from Alec Baldwin, James Cromwell, and Richard Pryor and more than 800 protests at Burger King restaurants worldwide, was called off

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**DEFENDANTS'  
EXHIBIT**

**Case No. 1:11-cv-08808**

**D-0718**



**PETA**

**PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS**

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AN INTERNATIONAL  
ORGANIZATION DEDICATED  
TO PROTECTING  
THE RIGHTS OF ALL ANIMALS

**PETA 55**

after Burger King announced that it would exceed the animal welfare standards that PETA had negotiated with McDonald's (see MurderKing.com). Just this month, PETA's campaign against Wendy's was halted when the chain confirmed that it would implement animal care standards similar to those of its competitors (see WickedWendys.com).

The following represent the most extreme areas of animal suffering experienced by animals raised for food. We would be happy to meet with you to go over each of the following points in detail, but I will summarize each briefly. We urge you to make a commitment at least equal to the ones that McDonald's, Burger King, and Wendy's have made, by instituting the following changes:

1. **Initiate audits of slaughterhouses and cut off suppliers that are out of compliance with humane slaughter guidelines.** The Humane Slaughter Act, the only federal law that protects animals raised for food, is not enforced—the government has taken inspectors off slaughter lines, so the industry is left to police itself. The result is that slaughterhouse workers routinely beat, scald, skin, and dismember conscious animals; this behavior has been documented on videotape and in statements from line workers and retired USDA inspectors.
2. **Cease buying eggs from suppliers that give hens less than 75 square inches of space per bird with the ultimate goal of phasing out battery cages altogether.** Currently, suppliers cram hens into wire mesh battery cages with about as much space per bird as one-half of a sheet of standard paper. This abuse, which has been condemned as cruel by the entire European Union, is the *modus operandi* for America's egg suppliers. The average stocking density for henhouses across the United States is an abysmal 48 to 54 square inches per bird—these conditions don't allow hens enough space to spread even one wing their entire lives, and losses from death are in excess of 16 percent in many systems.
3. **Buy chicken flesh and eggs only from suppliers that don't debeak chickens and ducks.** Debeaking is the industry's cruel response to the destruction of nature's pecking order, which causes birds to go insane and fight because of overcrowding. The solution is to improve conditions (as McDonald's, Burger King, and Wendy's have done) so that animals do not go insane and attack one another, not hack off beaks and bills.
4. **Institute humane guidelines for methods of catching chickens.** Chicken-catchers routinely break bones as they gather chickens in sheds, remove hens from cages, and load them into crates for transport to slaughter. McDonald's, Burger King, and Wendy's suppliers curb this problem by financially rewarding workers who treat chickens more gently, thereby reducing the frequency of broken bones and hemorrhaging.
5. **Stop buying eggs from suppliers that starve and dehydrate hens in order to increase egg production (a process known as "forced molting").** By removing food and water for up to two weeks, suppliers shock hens' worn-out bodies into another egg-laying cycle. Up to 5 percent of hens subjected to this procedure die, while the remaining hens, many of whom have lost all their feathers and 35 percent of their body weight, are forced to lay more eggs before being shipped off to slaughter. Forced molting is outlawed in Europe and has now been banned by McDonald's, Burger King, and Wendy's.
6. **Phase out purchases from farms that confine sows to stalls.** On today's factory farms, breeding pigs are confined to tiny concrete stalls for most of their lives. Unable to turn around, lie in a comfortable position, or nuzzle their babies, many of these animals go mad from the boredom, frustration, and stress, resulting in self-mutilation and aggressive behavior. Sow stalls are illegal

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throughout much of Europe, and viable alternatives have proved successful in the United States and Canada. Currently, Burger King will begin buying from suppliers that raise sows in less cruel conditions, McDonald's is funding alternative sow housing research at Purdue University, and Wendy's is working with pig experts in the animal welfare field.

7. **Require slaughterhouses to improve electrical stunning of chickens by increasing stun bath settings to 120 mAmps, and encourage the adoption of gas stunning as a less cruel alternative.** Before their throats are cut, chickens' heads are passed through an electrically charged water bath that immobilizes them but does not render them insensible to pain. The amperage is so low that chickens are often alive and bleeding to death after their throats are slit and enter the scalding tank (boiling water for feather removal) still partially conscious. Some of them miss both the immobilization bath and the automated neck-slicer and are scalded to death while fully conscious. Burger King, McDonald's, and Wendy's have increased stun baths to 120 mAmps (Wendy's is considering going as high as 200 mAmps), which will improve the situation, but gas killing for chickens has proved to be a more humane means of slaughter and should replace inhumane and outdated electrical stunning. I'm sending a copy of PETA's research on this subject for your review.
8. **Require suppliers to adopt air-quality guidelines for chickens by limiting ammonia exposure to 25 parts per million, as done by Burger King and Wendy's, with an eventual goal of 10 parts per million.** Chickens exposed to toxic ammonia suffer from chronic respiratory diseases, weakened immune systems, bronchitis, and "ammonia burn," a painful condition of the eye that can lead to blindness.
9. **Require that suppliers immediately euthanize any animals who arrive at the slaughterhouse unable to walk, with broken limbs, or in severe pain (frozen, suffering from heat stroke, etc.).** Animals routinely arrive at slaughterhouses frozen to the sides of trucks or unable to walk because of injuries or heat exhaustion. They should not be dragged from the backs of trucks or tortured into walking. They should be euthanized.

These guidelines represent a good start. Over the next few months, Wal-Mart does not need to reinvent the wheel—McDonald's, Burger King, and Wendy's have laid the foundation for minimal standards on which you can build. Of course, these guidelines are far from complete, and all three fast-food chains have pledged to do more to improve conditions. To develop a comprehensive policy on animal welfare, Wal-Mart should start now to implement these additional steps:

1. **Require producers to improve conditions for veal calves in ways similar to existing United Kingdom and European standards.** In the United States, calves are separated from their mothers a day or two after birth, confined, tethered, isolated in dark crates so small that they cannot turn around or comfortably lie down, and fed an anemia-inducing diet to make their muscles pale and weak. Guidelines to reduce some of their suffering include:
  - prohibiting the tethering and muzzling of calves
  - banning the use of veal crates, with the ultimate goal of raising calves truly free-range (In the interim, the European Union system of pens should be adopted in which calves have contact with other calves and are given enough space to turn around and comfortably lie down in.)
  - requiring that calves not be kept in perpetual darkness and that artificial lighting be provided during normal daylight hours
  - requiring that calves be fed a diet that meets their nutritional needs, including a diet of solid food and dietary iron

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- requiring that calves be given appropriate dry bedding
  - requiring that calves not be weaned before 5 weeks of age
2. **Eliminate the use of rBST in dairy cattle.** Bovine somatotropin (rBST), also known as bovine growth hormone (BGH), was recently deemed so detrimental to cow welfare by a Canadian veterinary panel that it was rejected for use in Canada by its government. In fact, the panel found that rBST increased the risk of clinical mastitis (a painful infection of the udders) by approximately 25 percent and lameness by 50 percent. This drug, which may also harm human health, has been outlawed in Australia and the European Union.
  3. **Improve living conditions for dairy cows.** Dairy cows must never be tethered, except when absolutely required (e.g., for milking, weighing, or veterinary care). All cattle, regardless of location, should have access to pasture or turn-out lots for a minimum of five hours per day, with a minimum of 600 square feet per cow. Cattle kept in dry lots must have access at all times to an area for lying down that is well-drained, provides shelter from the sun, and is large enough to accommodate all cattle lying down at the same time. Cattle must always have the space to turn around, groom themselves, and lie down freely. Cows should be fed a diet of grasses and other foods that meet their nutritional needs.
  4. **Require dairies to immediately euthanize downed animals.** Up to 91 percent of non-ambulatory animals are dairy cattle. These animals suffer immensely as they are dragged, pushed, or hoisted from place to place.
  5. **Buy chickens and ducks raised only truly free-roaming.** Intensively reared chickens are crammed into crowded warehouses with tens of thousands of other birds, where they have less space per bird than a standard sheet of paper. Cutting a hole in the side of currently used warehouses, as many so-called "free-range" companies do, is not acceptable. Chickens require a nesting area, a sunning area, shelter, and plenty of food and fresh water that is spread out enough to prevent the birds from fighting over it. Ducks require access to water to bathe and swim in, a basic necessity that is denied on factory farms.
  6. **Require suppliers to stop breeding animals for weight.** Currently, chickens are at full slaughter weight in less than two months. These birds suffer chronic leg pain and bone cracks, as their upper bodies are forced to grow so quickly that their legs cannot support their weight.
  7. **Prohibit suppliers from mutilating animals for convenience.** Tail-docking of cattle and pigs, toe-clipping of turkeys, and tooth-clipping of pigs are painful and unnecessary procedures. Dehorning should be eliminated, and castration should be performed only with the use of anesthesia.
  8. **Prohibit the practice of branding.** Branding involves giving cattle third-degree burns without any painkillers, sometimes as often as four times over a two-year period. Currently, Burger King strongly discourages suppliers from branding, and Wal-Mart should openly condemn this practice.

In fairness, you should know that since PETA has called off its aggressive national campaign against Wendy's, we will soon turn our attention to grocery store chains. Please assure us that you plan to meet or exceed the commitments to animal welfare made by McDonald's, Burger King, and Wendy's. We stand ready to meet with you, to assist you, and to work with you to improve the lot of the countless animals who depend on you for the relief of their suffering.

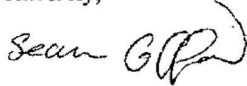
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We look forward to your reply.

Sincerely,

A handwritten signature in black ink that reads "Sean Gifford". The signature is written in a cursive, flowing style.

Sean Gifford  
Campaign Coordinator  
Ext. 1470

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**PETA 59**

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# **DEFENDANTS' EXHIBIT 0736**



**PETA 85**

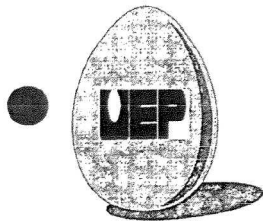
**DEFENDANTS'  
EXHIBIT**

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# **DEFENDANTS' EXHIBIT 0987**

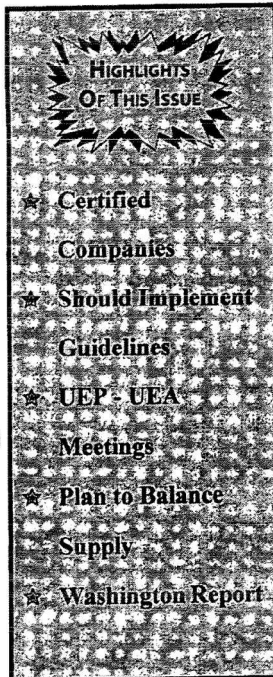


# United Voices



United Egg Producers  
Gene Gregory - Editor

March 25, 2002



## CERTIFIED COMPANIES

The following egg production companies have filed an "Application For Certification" with UEP and have therefore committed to implementing Animal Husbandry Guidelines. By this commitment, these companies will begin to phase-in the cage space allowance with chicks hatched after April 1, 2002 and phase-in the guidelines for beak trimming, molting, handling & transportation starting on July 1, 2002.

Provisional certification numbers are now being assigned for each company in the order by which the applications were received. These companies will be authorized to trade eggs using the provisional certification number until an audit has been conducted at which time a fully certified status will be achieved. The list shown below is in the order by which applications were received by the UEP office.

- |                               |                                 |
|-------------------------------|---------------------------------|
| 1. Wilcox Farms               | 31. J.S. West Milling           |
| 2. Midwest Poultry Service    | 32. Maxim Production            |
| 3. Cal-Maine Foods            | 33. Norco Ranch                 |
| 4. Creighton Brothers         | 34. McAnally Enterprises        |
| 5. ISE Newberry               | 35. Sunrise Farms of California |
| 6. Mahard Egg Farms           | 36. Valley Fresh Foods          |
| 7. Lumber City Egg Marketers  | 37. North Alabama Egg Co.       |
| 8. Glenwood Foods             | 38. Red Bird Egg Farms          |
| 9. Braswell Egg Co.           | 39. Olson Farms                 |
| 10. Simpson's Eggs            | 40. Herbruck's Poultry Ranch    |
| 11. Daylay Egg Farm           | 41. Schipper Poultry            |
| 12. United Egg Marketers      | 42. Oakdell Egg Farms           |
| 13. Crystal Farms             | 43. Active Feed Co.             |
| 14. Kreher's Poultry Farm     | 44. Delta Egg Farm              |
| 15. Zephyr Egg Co.            | 45. Sunbest Foods of Iowa       |
| 16. Kofkoff Egg Farm          | 46. Grand Mesa Eggs             |
| 17. Southern New England Eggs | 47. Moark Productions           |
| 18. The Egg & I Farm          | 48. Gemperle Enterprises        |
| 19. ISE America               | 49. Freitas Fresh Egg           |
| 20. Wegmans                   | 50. Karl Jensen & Sons          |
| 21. R.W. Sauder               | 51. Gervase Farms               |
| 22. Radlo Bros.               | 52. Wilfie Farms                |
| 23. LaValle Egg Farms         | 53. Yankee Farm                 |
| 24. Elmer King Farm           | 54. Su's Chicken Farm           |
| 25. Sperry Farms              | 55. Garber Poultry Farm         |
| 26. Creekwood Farms           | 56. Baer Brothers               |
| 27. Edelweiss Farms           |                                 |
| 28. Dynes Farms               |                                 |
| 29. Morning Fresh Farms       |                                 |
| 30. Sparboe Companies         |                                 |

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## DEFENDANTS' EXHIBIT

Case No. 1:11-cv-08808

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### **AUDIT FORM & PROCEDURE BEING FINALIZED**

UEP's Producer Committee for Animal Welfare is meeting in Chicago on March 26<sup>th</sup> to address comments and concerns that arose during the series of recently held area meetings. The agenda will include the following items, which will be communicated to the membership once decisions are made:

1. Finalize the Animal Husbandry Audit Form and audit procedures.
2. Begin the process of selecting firms, individuals or associations that will be authorized by UEP to conduct audits.
3. Clarify the status of a "Certified Company".
4. What must a company do to catch-up if they miss the April 1<sup>st</sup> starting date?
5. What will be used as grower house mortality for arriving at the number of hens to be housed?
6. Establishment of a method by which eggs from "certified companies" can be traded.

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### **YOU SHOULD IMPLEMENT GUIDELINES**

**An Editorial by: Gene Gregory**

While most producers were aware of UEP working with both a Scientific and Producer Committee to develop Animal Husbandry Guidelines, they couldn't anticipate when they would ever have to implement such guidelines. Many producers are still waiting to hear from their customers before they initiate any changes. This is a natural reaction because why incur additional costs if your customer doesn't demand changes. You must, however, ask yourself this question, "does my egg buyer make corporate decisions on such matters or is this decision being made at the highest company levels", we believe you know the answer.

Food Marketing Institute (FMI) and the National Council of Chain Restaurants (NCCR) are expected to make a public announcement including press coverage in June of this year. Soon thereafter they will encourage their members (which represents nearly all sizes of grocery stores and restaurants) to discuss with their suppliers the need to implement Animal Husbandry Guidelines. They are further expected to require that an annual audit be conducted to confirm that the supplier is meeting the guidelines.

So if FMI and NCCR do make the June announcement, it could be anticipated that the trickle down effect will begin and your egg buyer will be far more interested in eggs produced from farms meeting Animal Husbandry Guidelines.

UEP has been trying to develop a set of guidelines based upon science that can be acceptable to both the Marketplace and Government. We believe we have done just that and that FMI and NCCR will endorse the UEP Guidelines. Remember that UEP's Guidelines were written for all egg production facilities, not just those dedicated to the shell egg market. While the major grocery retailers and major restaurant chains are the focus of the animal rights groups at this time, we believe this issue will spread very rapidly to all markets once FMI and NCCR have made an announcement.

We have demonstrated to FMI and NCCR that it is imperative that we create a level playing field for both UEP members and the members of FMI and NCCR. To do otherwise would create severe market disruption and much higher costs. This leads us to the concept of using existing cage equipment and basing our phase-in of the cage space allowance on a "house average" concept. The phase-in period also allows for time to construct new facilities that will be needed to replace the demand in the marketplace. As we reduce the flock size, hopefully profits will be realized, which can be reinvested in this new construction.

UEP's Board gave the Industry an opportunity to access how committed FMI - NCCR or the Grocery Manufacturers of America or the National Restaurant Association may be. In doing so they have asked the industry to commit to implementing the guidelines on 100% of their production until October of this year. At that time the Board will review this commitment and determine if the marketplace is committed.

continued on page 3

continued from page 2

So you ask how will I recover my cost? A special committee has been established for the purpose of developing a price discovery system that will allow eggs from certified companies to be traded and for the market reporter to publish a separate quote for certified eggs.

There, however, is another way to recover the cost. Some may think of this as only a supply adjustment program and those that implement the guidelines will realize an increased cost while those that stand on the sideline will benefit equally. So let's just review the costs of the first step of the phase-in plan. Remember that this step calls for chicks hatched after April 1<sup>st</sup>, 2002 and before October 1, 2003 to place those pullets in the layer house at a "house average" of 56 inches per hen.

While I'm no economist and therefore look at things in a simple manner, here is an example to consider. A producer with 100,000 layers housed at 53.3 square inches per hen would reduce their flock by 4,800 hens. If this producer currently had a 40-cent cost of production, the cost would increase to 42-cents per dozen. What about a complex of multiple houses? An example could be for a complex of 10 – 100,000 size houses that might only have three (3) houses come due on the schedule for reduction between now and October of this year. If this was true, their costs would only increase to 40.57 cents per dozen.

If all the Industry were to follow the guidelines through the first step this would result in a flock size reduction of 13 million hens. Place your own estimate on how much the egg market will rise if even half this reduction were to occur. So the payback for making this first step to a "house average" of 56 square inches is tremendous.

Sure the phase-in will eventually reach a space allowance for existing houses at a "house average" of 67 inches. When this finally occurs in the fall of 2008, and using the same theory as above, the cost of production will have risen by 10 cents per dozen. This of course doesn't take into consideration the increased costs of administration and processing costs.

So you are producing eggs for egg breaking and the products market. If your yield is 38 pounds per case and the cost of producing shell eggs is 40 cents per dozen then the cost of unpasteurized liquid product is 31.5 cents per pound. Using the example of a complex of 1 million birds that implements the first step over the period of April through October 2002 and your shell egg production costs increases to 40.5 cents per dozen would result in a 4/10 cent per pound increased product cost. Again, using the 10-cent increased costs once all phases of the plan have been implemented would add a cost of 7.9 cents per pound of product.

So in conclusion, it is my recommendation that the industry implement this first phase-in step and once we know the commitment of the marketplace we will make more long term plans. So if you are still waiting to sign and return the Application for Certification to UEP, do so now. It is in your best interest.

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### **UEP LEGISLATIVE MEETING**

There is no better way to communicate your personal or business positions on legislative or regulatory issues than a visit to your Congressional office in Washington, D.C. UEP's Spring Legislative Meeting provides you with the opportunity to delivery position papers on key issues along with two-dozen eggs to your Congressman's office. **Believe it or not – this makes a major impression and is extremely helpful to your UEP Washington Staff.**

Mark your calendar for May 13-16 and plan to be a part of the large attendance of egg producers making this once again a major event for the Egg Industry. If you have not already made reservations please do so as soon as possible. A registration form, agenda, and list of invited speakers are enclosed.

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### **UEA ALLIED TO HOLD ANNUAL MEETING**

UEA Allied Chairman, Terry Pollard is inviting all UEA Allied members to participate in UEP's Spring Legislative Meeting. Additionally, Pollard has scheduled the UEA Allied annual meeting for 1:00 – 3:00 PM on Wednesday May 15<sup>th</sup> at the Washington Court Hotel in Washington, D.C. Please return the enclosed registration form as quickly as possible.

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### ***PLAN TO BALANCE SUPPLY WITH DEMAND***

There has been a nice upward movement in market prices and the Easter market period will be profitable. Most regions have seen large prices improve 25 cents or more over the past few weeks. Can this be sustained? Historically, summer months have been the low egg market period of the year and this year will very likely be no different unless changes begin to take place.

UEP's Production Planning Calendar places the 10-year average supply demand index at 84% during the weeks of April – July, so this is a good time to reduce supply because the demand will be less than other periods of the year.

UEP's Marketing Committee has recommended a voluntary plan that will help improve the balance of supply demand during the April – July period. The plan calls for:

1. All flocks 62 weeks or older be placed into a molt starting April 1<sup>st</sup> and continuing through July 1<sup>st</sup>.
2. Dispose of spent hens 4 weeks earlier than the normal schedule starting April 1<sup>st</sup> and continuing through July 1<sup>st</sup>.

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### ***NEWS FROM USDA-AMS***

**California Eggs:** Effective March 18, a price recommended by the California Egg Marketing Association (CEMA) and other marketers in the State will replace the California Invoice prices. These new prices will reflect the recommended price for negotiated sales of USDA Grade AA and Grade AA in cartons, cents per dozen. The price will not reflect any discounts or other contract terms. The change is being made to more fully involve CEMA and the other marketers in California in setting a benchmark price for eggs in the state.

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### ***EGGS PROCESSED UNDER FEDERAL INSPECTION***

USDA reports the number of eggs broken through week ending March 9<sup>th</sup> to be 11.2 million cases as compared to 10.9 million at the same date a year earlier.

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### ***ANIMAL WELFARE RALLY***

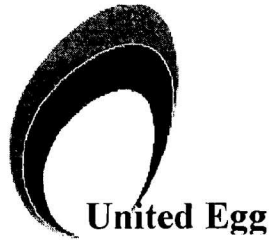
New Jersey will be the venue for a rally among people opposed to "factory farming" by national animal rights groups on April 7 and 8. Led by Farm Sanctuary, the rally in Trenton is an outgrowth of a pressure campaign to force the New Jersey Department of Agriculture to produce meaningful humane standards for farm animals.

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### ***FOR SALE***

Approximately 100,000 used Phillips plastic flats. Mostly, natural color, a few orange. All in moderate shape. If interested, call Linda at the UEP-Iowa office (563) 285-9100.

# **DEFENDANTS' EXHIBIT 1086**



# United Voices

Gene Gregory – Editor

## HIGHLIGHTS OF THIS ISSUE

- \* **HSUS Pushes Bill**
- \* **Molted Flocks – Back In Production**
- \* **FMI/NGA Conference**

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## HSUS Pushes The Farm Animal Stewardship Purchasing Act

The Humane Society of the United States (HSUS) urges Congress to pass House Bill # 5557, the Farm Animal Stewardship Purchasing Act, which was introduced by Congressmen Christopher Shays (R-CT) and Peter DeFazio (D-OR) on June 8<sup>th</sup>. The Bill would require animal producers supplying meat, dairy products and eggs to the military, federal prisons, school lunches, and a variety of other federal programs to comply with animal welfare standards.

The Bill would require that producers provide farm animals with adequate shelter and space, daily access to food and water, and adequate veterinary care. Adequate shelter is defined as: *"adequate shelter which allows sufficient space for the covered animal to stand, lie down, get up, walk, move his or her head freely, rest, and turn around completely and fully extend all limbs or wings without touching any part of the enclosure."*

HSUS has obviously worked with the Congressmen to include language within the Bill that would prohibit egg producers with cage layers from selling products to the government and therefore promote their agenda for non-cage systems.

Congressman Shays, co-chair of the Congressional Friends of Animals Caucus said: *"Our government can have a tremendous impact in encouraging improved treatment of animals by requiring producers to meet basic federal animal welfare requirements. I look forward to working with Representative DeFazio and the HSUS on building support for this legislation".*

Congressman DeFazio said: *"Increasingly, Americans are demanding we treat farm animals more humanely. As a major buyer of farm animal products, the federal government can and should help lead the way, encouraging more humane practices."*

HSUS says: *"Each year, the federal government spends billions of dollars on food for programs at agencies including the National School Lunch Program, the Armed Services, and the Bureau of Prisons. Consumers are demanding better animal welfare standards and many national corporations have stopped selling eggs from hens kept in battery cages and adopted other food reforms. The Shays/DeFazio bill would help move the market in this direction."*

HSUS has urged their members and anyone visiting their website to contact their Congressmen and urge their Congressman to co-sponsor and support H.R. 5557.

June 23, 2006

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## DEFENDANTS' EXHIBIT

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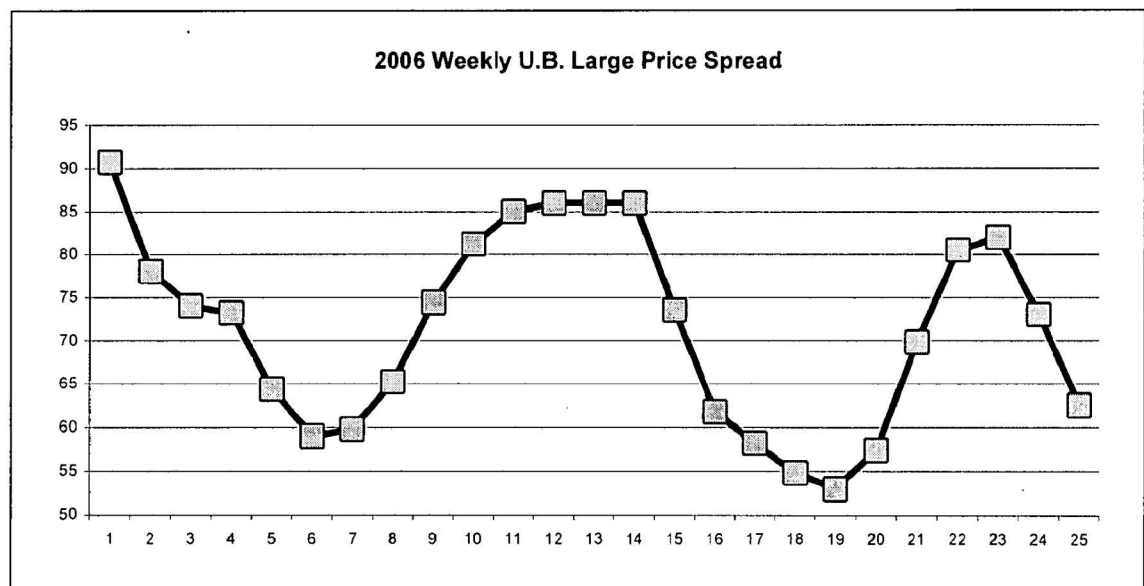
### Are Early Molting Flocks Back in Production?

Recognizing that shell egg demand has historically been out of balance with supply during the weeks between Easter and Labor Day, UEP's Marketing Committee recommended that members molt and dispose of flocks six weeks earlier than previously scheduled.

Since mid-May we have seen egg prices rise by 29 cents per dozen and then begin to decline. From the early June peak price, we have seen prices decline by 24 cents per dozen within 11 days. The Urner Barry Midwest Large quote was at 58 cents on June 22<sup>nd</sup> (the day this story was written) and 7 cents per dozen below the unprofitable level on the same day a year ago. Have early molted flocks come back into production? Did anyone follow the recommendation to dispose of flocks six weeks early? Do these wide market swings do a disservice to our customers? **Am I wasting my time writing about this and urging producers to be more responsive?** Egg producers, whether marketing shell egg or egg products, are going to have to come to terms with the oversupply problem.

A producer wrote UEP saying: *"It is pretty obvious that the molted birds from about six weeks ago are all back in production and we know that we cannot expect the breakers to help us out as they are nearly self-sufficient and the dried inventories are at or near all time highs. We were wondering if a proposal to extend all molts by one additional week through September would be a simple enough program to get everyone who molts to participate. It would not matter what length of molt you currently do, just extend it by one week. We think it would have a very positive impact on supply."*

UEP's Production Planning Calendar provides a 10-year history of supply demand. The average supply demand index for the weeks between July 1 and September 15 is 94.12% meaning that supplies have historically been nearly 6% greater than the demand. Based upon this history, shouldn't we reduce supply over the next 11 weeks? Shell egg producers need to recognize that with nearly 50% of all eggs being broken coming out of in-line production/breaking facilities, finding a home for surplus shell eggs is becoming more and more difficult.



### Largest New Zealand Egg Producers Will Label Eggs As Cage Eggs

Animal activists presented a petition with more than 51,000 signatures to the New Zealand Parliament, which forced the two largest cage egg producers in the country to label their egg cartons as "Cage Eggs".

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### **British Egg Council Seeks Ban On EU Egg Imports**

Britain's Egg Industry Council is asking that the country stop importing eggs from certain European Union countries because of salmonella threats. The Council believes that imports from other EU countries should be banned unless they have been produced to the standards required by the British Lion scheme, including vaccination of hens against salmonella, a best-before date on every egg and full traceability of eggs, hens and feed.

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### **Pork Welfare Program**

The Pork Industry Animal Care Coalition has announced the new Pork Quality Assurance Plus welfare certification program. It is reportedly been developed by the Pork Industry Animal Care Coalition, which is composed of pig producers, meat packers, processors, retailers, restaurants and their associations. Scheduled for launch on July 1, 2007, with a 3-year implementation period, the program consists of training, on-farm assessments, certification and an auditing process.

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### **Maurice Stein Award**

The scholarship foundation named in honor of UEP's first Chairman, Maurice Stein and managed by UEP, has annually rewarded a college student with a scholarship for future education. The selection of the student to receive the scholarship is made by the Poultry Science Association.

This year's honoree is Vanessa Kretzchmar-McCluskey, who received a B.S. in Poultry Science with a minor in Spanish from Auburn University. Vanessa entered into her Ph.D. research and is currently pursuing her studies with research focusing on the natural prevalence of *Salmonella* Enteritidis and other microflora on the exterior, in the interior shell, and in the contents of shell eggs. She manages the Auburn University Egg Quality Laboratory where research is done on the functional properties of eggs. In the future, Vanessa hopes to work in an educational or research and development field focusing on food safety.

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### **Farmed Animal Net**

This website says this is a source for "*objective information for the thinking advocate*". So who are the sponsors of [www.farmedanimal.net](http://www.farmedanimal.net)? The answer is: Animal Place, Animal Welfare Institute, Animal Welfare Trust, Farm Sanctuary, The Glaser Progress Foundation, The Humane Society of the United States (HSUS), and People for Ethical Treatment of Animals (PETA). Once again, it shows that HSUS and PETA have close ties.

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### **Condolences**

Joseph Maust Sr. passed away at his home on June 16<sup>th</sup> at the age of 98. The founder of Active Feed Company and the egg production/marketing company of the same name was still coming to the office in Pigeon, Michigan a few hours per day up until his death. The long time member of United Egg Producers was a sportsman and enjoyed golf, hunting, bowling, and downhill skiing. He and his wife Emma had recently celebrated their 70<sup>th</sup> wedding anniversary. Beginning as a farmer, Mr. Maust ventured into the frozen food locker plant business and later added a grocery store. Moving on from those enterprises, he opened his feed business, later adding the egg production and marketing, then a propane gas business, and held a majority interest in a local area bank with financial services and insurance.

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### **FMI/NGA Public Policy Conference**

UEP recently had the opportunity to promote the **United Egg Producers Certified** program to the members of the Food Marketing Institute (FMI), the National Grocers Association (NGA), and the Food Industry Association

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Executives (FIAE). The event, **Public Policy Conference**, held in Washington, D.C., included Executive level representatives from most of the major grocery chains and many small retailers in the country.

The **United Egg Producers Certified** program was presented on four occasions at the following events:

- FMI/NGA Joint State Association Meeting
- FMI Public Affairs & Government Relations Committee Meeting
- NGA Government Relations Leadership Council Meeting.
- Breakfast meeting of all attendees.

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### **Bird Flu Preparedness Workshop**

Approximately 90 people were in attendance at the UEP Avian Influenza Workshop held in Atlanta on June 14 & 15. Experts making presentations on the subject of avian influenza included:

- Dr. David Swayne – USDA/ARS Southeastern Poultry Research Lab
- Dr. Nina Marano – Centers for Disease Control
- Dr. Jill Nezworski – Minnesota Veterinarian
- Andy Rhorer – USDA/APHIS National Poultry Improvement Plan
- Dr. Karen Grogan – USDA/APHIS National Poultry Improvement Plan
- Dr. Larry Granger – USDA/APHIS
- Dr. Nan Hanshaw Roberts – Pennsylvania Department of Agriculture

The package of material included information prepared by UEP's Washington team that addressed the issues of:

- Prevention
- Low-Path versus High-Path Avian Influenza
- Surveillance
- Response Plan for HPAI
- State Role & Individual Producer Impact
- Crisis Communications Manual

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### **Egg Products**

USDA reported, for week ending June 17, 2006, that the number of cases of shell eggs broken, year-to-date, was 1% below the previous year levels. Despite breaking 1% fewer cases, the volume of liquid whole egg was reported to be 3% larger than a year ago at this date.

USDA reported the dried egg inventory on May 31, 2006 to be 48% larger than on the same date a year ago and 13% larger than the previous month.

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### **Largest Food Retailers**

*Feedstuffs* magazine listed the largest food retailers in the U.S. in terms of dollar sales in their June 5<sup>th</sup> issue. Wal-Mart, Kroger, Albertson's, Safeway, and Costco were the five leading companies. With the merger of SuperValu in the 11<sup>th</sup> spot and Albertson's in the 3<sup>rd</sup> spot, things will be changing but the combination will not replace either Wal-Mart or Kroger.

Wal-Mart holds a 26.7% share of the total grocery sales in grocery stores and supermarkets based upon 2005 sales, followed by Kroger's 9.8%. The two companies represent 24.7% of all food sold in retail formats.

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# **DEFENDANTS’ EXHIBIT 1202**

Laws Related to the Treatment of Egg Laying Hens and Cage Space During the Relevant Time Period				
Jurisdiction	Type	Introduced	Passage	Nature
European Union	EU Council Directive		1999	Council directive banned construction of new battery cages effective Jan. 1, 2003. Battery cages prohibited effective Jan. 1, 2012.
Washington	Law	Feb. 1, 2001	Did not pass	Would have prohibited forced molting, beak trimming, and battery cages.
Washington	Law	Jan. 27, 2011	May 10, 2011	Law requires that all egg producers in the state and who sell eggs or egg products in the state are UEP certified or cage free (or comply with more strict standards) until Jan. 1, 2026, effective Aug. 1, 2012. Requires that all egg producers in the state and who sell egg or egg products in the state comply with the American Humane Association enriched colony housing requirements effective Jan. 1, 2026.
New Jersey	Regulation	2006	Dec. 4, 2006	Regulation requires adequate space to stand, lie down, get up, walk, spread wings, move head, turn around, and rest for all hens in state effective Dec. 4, 2006.
California	Ballot Initiative	Apr. 9, 2008	Nov. 4, 2008	Law requires all hens in the state to have sufficient space to turn around freely, lie down, stand up, and fully extend wings effective Jan. 1, 2015.
California	Law	Feb. 27, 2009	Jul. 6, 2010	Law expands application of 2008 law to apply to all eggs sold in the state effective Jan. 1, 2015
Arizona	Regulation	Nov. 14, 2008	May 29, 2009	Regulation requires 2008 UEP Guidelines or cage free for all hens in state and eggs sold in state effective Oct. 1, 2009
Massachusetts	Ballot Initiative	Jul. 6, 2016	Passed (Nov. 8, 2016)	Requires sufficient space to turn around freely, lie down, stand up, and fully extend both wings (defined as 1.5 square feet per hen) for all hens in state and all shell eggs sold in state effective Jan. 1, 2022.

**DEFENDANTS'  
EXHIBIT**

Case No. 1:11-cv-08808

**D-1202**

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Jurisdiction	Type	Introduced	Passage	Nature
Michigan	Law	Jun. 23, 2009	Oct. 15, 2009	Law requires all hens in the state to be able to lay down, stand up, extend wings, and turn around effective 2019.
Ohio	Law	Jan. 19, 2010	Mar. 31, 2010	Law created Ohio Livestock Care Standards Board to pass regulations ensuring wellbeing of livestock including laying hens effective Mar. 31, 2010.
Ohio	Regulation	May 9, 2011	Sept. 29, 2011	Regulation requires 67 square inches per hen for hens in the state for new systems installed on existing farms after Sept. 29, 2011 effective Sept. 29, 2011. Requires 67 square inches per hen on average by house/barn for existing systems on existing farms by Sept. 29, 2016. Prohibits battery cage installation on any new farms opened after Sept. 29, 2011 effective Sept. 29, 2011.
Oregon	Law	Feb. 22, 2011	2011	Law requires cages built before Jan. 1, 2012 to meet the requirements of the UEP guidelines for all hens in the state. Requires cages built after Jan. 1, 2012 to be an enriched colony facility system with each hen having at least 116.3 of floor space per hen.
Federal	Law	Jan. 23, 2012	Did not pass	Would have banned battery cages but allowed the use of enriched colony cages with at least 124 square inches per hen. Would have required descriptions on egg cartons describing the housing system for laying hens.